

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

CNS INTERNATIONAL)
MINISTRIES, INC.,)
Plaintiff,)
v.) Case No. 2:21-cv-00065
ROBERT KNODELL,)
Defendant.)
)
)

**DEFENDANT'S MOTION FOR SUMMARY JUDGMENT ON COUNTS II, V, VII, AND
BACKGROUND CHECK RELATED ASPECTS OF COUNT III**

Plaintiff seeks declaratory and injunctive relief and brings as-applied challenges to the constitutional validity of several provisions of the recently adopted Residential Care Facility Notification Act, Mo. Rev. Stat. §§210.1250 to 210.1286, (RCFNA), and the Missouri Department of Social Services' implementing regulations regarding license exempt residential care facilities (LERCFs).

This motion for summary judgment addresses Count II, Count V, Count VII, and the due process challenges to aspects of the administrative review and appeal processes applicable to background check findings that Plaintiff raised in Count III. A separate motion for summary judgment filed by Defendant addresses the remaining procedural due process claims in Count III; Count IV; and Count VI. A separate motion for summary judgment filed by Defendant addresses only Count I. For the reasons stated in Defendant's motions for summary judgment and contemporaneously filed supporting legal memoranda, there is no genuine issue of material fact and Defendant is entitled to summary judgment as a matter of law.

Defendant, through counsel, pursuant to Rule 56(b) of the Federal Rules of Civil Procedure and Local Rule 4.1, moves the Court to grant summary judgment in his favor and against Plaintiff

on Counts II, V, VII, and the due process challenges to aspects of the administrative review and appeal processes applicable to background check findings that Plaintiff raised in Count III because, as more fully explained in Defendant's memorandum of law filed contemporaneously with this motion, the challenged provisions do not violate Plaintiff's right to expressive association and do not implicate *Hosanna-Tabor*. The administrative review and appeal processes applicable to background check findings, which are subject to de novo judicial review under Mo. Rev. Stat. §536.150, satisfy procedural due process.

WHEREFORE, Defendant respectfully requests that the Court grant this motion for summary judgment.

Respectfully submitted,

ERIC S. SCHMITT
Attorney General

/s/ Emily A. Dodge
Emily A. Dodge, Mo Bar #53914
Assistant Attorney General
P.O. Box 899
Jefferson City, MO 65102-0899
Tel: (573) 751-7344
Fax: (573) 751-9456
Email: Emily.Dodge@ago.mo.gov
ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of November, 2022, the foregoing was filed and served via the Court's electronic filing system upon all counsel of record.

/s/ *Emily A. Dodge*

Emily A. Dodge
Assistant Attorney General